

(O-2003-74)

ORDINANCE NUMBER O-19126 (NEW SERIES)

ADOPTED ON DECEMBER 3, 2002

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 13 BY AMENDING SECTIONS 24.1310 AND 24.1312; BY AMENDING DIVISION 14 BY AMENDING SECTIONS 24.1402, 24.1403 AND 24.1404; ALL RELATING TO THE SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, the City Council has the sole authority to establish the retirement benefits available under the San Diego City Employees' Retirement System ("System"); and

WHEREAS, the Board of Administration ("Retirement Board") for the System has the sole authority to manage the System, determine the rights to benefits under the System and invest the System's Trust Fund; and

WHEREAS, after meeting and conferring with the Police Officers' Association, Firefighters Local 145, Municipal Employees Association, and AFSCME, Local 127, the City Management Team agreed to implement a number of revisions to the Retirement System; and

WHEREAS, Ordinance No. OO-19121 (O-2003-67) was introduced at the October 21, 2002, meeting of the City Council; and

WHEREAS, Ordinance No. OO-19121 (O-2003-67) amends the Municipal Code to reflect the majority of the revisions to the Retirement System negotiated during the FY 2003 Meet and Confer process; and

WHEREAS, Ordinance No. OO-19121 (O-2003-67) did not include the revisions to the Retirement System giving Members represented by Firefighters Local 145 the ability to convert

on a pre-tax basis a Member's Unused Annual Leave accrued after July 1, 2002, including annual leave accrued after July 1, 2002, while in DROP, to Creditable Service in the Retirement System or use it to extend their participation in the System's Deferred Retirement Option Plan ("DROP"); and

WHEREAS, effective July 1, 2002, represented Members in the Firefighters Local 145 bargaining unit who have not yet entered DROP will be allowed to convert on a pre-tax basis the cash equivalent of their Unused Annual Leave accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP, to Creditable Service in the Retirement System or use it to extend their DROP participation periods; and

WHEREAS, the City's Personnel Department will determine the amount of a Member's Unused Annual Leave available and the City Auditor will then determine the value of the Member's Unused Annual Leave available to a Member to convert to Creditable Service in the Retirement System or to use to extend the Member's DROP participation period; and

WHEREAS, the Board will determine the amount of service to be credited to the Member's account in the Retirement System using a Member's Annual Leave in this manner, based upon the employer and employee cost of that Creditable Service; and

WHEREAS, represented Members in the Firefighters Local 145 bargaining unit will no longer be able to exercise any cash-out feature of any Unused Annual Leave accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP; and

WHEREAS, represented Members in the Firefighters Local 145 bargaining unit who have Unused Annual Leave accrued after July 1, 2002, will be allowed to extend their DROP participation periods beyond the five-year maximum by that amount the Member's Unused Annual Leave accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002,

while in DROP, still available and not converted to Creditable Service before entering DROP;
and

WHEREAS, represented Members in the Local 145 bargaining unit who have converted Annual Leave to Retirement System Creditable Service, and who transfer out of that unit will maintain the level of Creditable Service earned through the prior conversion, but will not be allowed to convert further Annual Leave accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP, to Creditable Service in the Retirement System after transferring out of the Local 145 bargaining unit; and

WHEREAS, represented Members who transfer into the Local 145 bargaining unit are eligible to participate in the Annual Leave conversion benefit, but will no longer be able to participate in any Annual Leave cash-out feature for Annual Leave accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP; and

WHEREAS, the ability to convert Annual Leave accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP, to Creditable Service in the Retirement System, or to extend a Member's DROP participation period, is not extended to fire personnel in the unclassified service who are not represented by the Local 145 bargaining unit; and

WHEREAS, specific procedures for implementing the conversion of Annual Leave to Creditable Service in the Retirement System, or to extend a Member's participation period in DROP, will be subject to Internal Revenue Code Rules and Regulations, as interpreted by the City Attorney's Office; and

WHEREAS, the conversion of Annual Leave to Creditable Service in the Retirement System, or the use of Annual Leave to extend the Member's DROP participation period, may result in an increase to the Retirement System's unfunded liability and a corresponding increase to the City's contribution rate over and above the scheduled rates in the Agreement Regarding Employer Contributions between the City and the Retirement Board (Manager's Proposal II); and

WHEREAS, the amount of any increase to the System's unfunded liability and the City's contribution rate will depend upon the amount of Annual Leave accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP, that is converted to Creditable Service in the Retirement System or used to extend the Member's DROP participation period; and

WHEREAS, these increases may occur because the City will not be transferring to the Retirement System the cash equivalent of the Annual Leave underlying the conversion to Creditable Service or the extension of the period of DROP participation in these Annual Leave conversion transactions; and

WHEREAS, the City agrees to submit to the Internal Revenue Service by January 1, 2003, a request for a Private Letter Ruling regarding the application of this pre-tax conversion of Annual Leave to Creditable Service for Annual Leave accrued before July 1, 2002; and

WHEREAS, Ordinance No. OO-19121 (O-2003-67) also did not include a revision to the Retirement System removing the current prohibition against counting a purchase of Creditable Service made pursuant to the General Provision for Five-Year Purchase of Creditable Service set forth in San Diego Municipal Code section 24.1312 towards the ten-year vesting requirement set forth in section 141 of the San Diego City Charter; and

WHEREAS, after consulting with the Police Officers' Association, Firefighters Local 145, Municipal Employees Association, and AFSCME, Local 127, the City's Management Team has agreed to remove this prohibition against counting a purchase of Creditable Service made pursuant to the General Provision for Five-Year Purchase of Creditable Service set forth in San Diego Municipal Code section 24.1312 towards the ten-year vesting requirement set forth in section 141 of the San Diego City Charter; and

WHEREAS, it is now necessary and proper to amend the San Diego Municipal Code to reflect the additional revisions to the Retirement System not set forth in Ordinance No. OO-19121 (O-2003-67); and

WHEREAS, the Retirement Board's General Counsel prepared this ordinance to amend the Municipal Code to make the changes agreed to by the City's Management Team and its recognized bargaining units and that were approved by the City Council; and

WHEREAS, this ordinance has been provided to the City Attorney for review and approval; and

WHEREAS, any changes that affect the retirement benefits of the active Members of the Retirement System will not be effective unless approved by a majority vote of the Members; and

WHEREAS, a vote of the Retirement System Members to approve the changes in this ordinance affecting Member benefits will take place from November 2002 through December 2002; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 4, Division 13, of the San Diego Municipal Code be amended by amending sections 24.1310 and 24.1312 to read as follows:

Division 13: Purchase of Service Credit

§ 24.1310 Purchase of Creditable Service Payment Options

- (a) To purchase Creditable Service, a Member must elect to pay and thereafter pay, in accordance with such election before retirement, into the Retirement Fund an amount, including interest, determined by the Board. No Member will receive Creditable Service under this Division for any service for which payment has not been completed pursuant to this Division before the effective date of the Member's retirement.
- (b) Subject to any limitations imposed by the Internal Revenue Code, such payments under section 24.1310(a) may be made by lump sum, installment payments, direct transfer to the Retirement System from any defined contribution plan maintained by the City of San Diego, or in such manner and at such time as the Board may by rule prescribe. Any sums paid by a Member under section 24.1310 are considered to be and administered as Member contributions.
- (c) Notwithstanding section 24.1310(a), effective July 1, 2002, represented Members in the San Diego Firefighters Local 145 bargaining unit who have not yet entered DROP may convert the cash equivalent of their Unused Annual Leave accrued after July 1, 2002, to Creditable Service in the Retirement System on a pre-tax basis. The amount of Creditable Service to be credited in the Retirement System will be the amount the Board determines to be the employer and employee cost of that Creditable Service. Represented Members in the Local 145 bargaining unit are not

eligible to exercise any cash-out feature of Annual Leave that they accrue after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP.

§ 24.1312 General Provision for Five-Year Purchase of Creditable Service

Any Member may purchase a maximum of five years of Creditable Service, in addition to any other Creditable Service the Member is eligible to purchase under this Division. The cost of Creditable Service purchased under section 24.1312 is the amount the Board determines to be the employee and employer cost of that Creditable Service.

Section 2. That Chapter 2, Article 4, Division 14 of the San Diego Municipal Code be amended by amending sections 24.1402, 24.1403 and 24.1404 to read as follows:

Division 14: Deferred Retirement Option Plan

§ 24.1402 Eligibility, Duration of DROP Participation, and Waiver

- (a) [No change.]
- (b) Before a Member may participate in DROP, he or she must voluntarily and irrevocably:
 - (1) - (7) [No change.]
 - (8) agree to leave City employment on or before the end of the Member's designated DROP participation period, unless the Member is represented by the San Diego City Fire Fighter's Local 145 bargaining unit, in which case the Member may extend his or her five-year DROP participation period by the amount of Unused Annual Leave the Member accrued after July 1, 2002, including

Annual Leave accrued after July 1, 2002, while in DROP, which was not converted to Creditable Service before the Member entered DROP.

(9) [No change.]

§ 24.1403 Termination of DROP Participation

(a) [No change.]

(b) The Retirement System will terminate the Member's participation in DROP when any of the following events occurs:

(1) the Member's designated DROP participation period ends, or in the case of a Member who is represented by the Firefighter's Local 145 bargaining unit, at the end of the Member's five-year DROP participation period extended by the amount of Unused Annual Leave the Member accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP, which was not converted to Creditable Service before the Member entered DROP.

(2) - (4) [No change.]

§ 24.1404 DROP Benefits and Participation Accounts

(a) through (b) [No change.]

(c) A Member's DROP Participation Account is credited with:

(1) - (4) [No change.]

(5) For a represented Member in the Firefighter's Local 145 bargaining unit, an amount representing the Member's Unused Annual Leave accrued after July 1, 2002, including Annual Leave accrued after

July 1, 2002, while in DROP, which was not converted to Creditable Service before he or she entered DROP.

- (6) Interest on the above amounts, as determined by the Board through rules and regulations adopted under Division 9 of this Article.

These rules and regulations will have the same force and effect as a duly adopted ordinance.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. Any aspect of this ordinance affecting the retirement benefits shall take effect upon approval by the Membership of the Retirement System pursuant to Charter section 143.1, and no earlier than the thirtieth day from and after its passage by the City Council.

APPROVED: CASEY GWINN, City Attorney

By _____
Michael Rivo
Deputy City Attorney

MR:ms
11/07/02
Or.Dept: Retire. [LEC:dm]
Aud.Cert:
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